

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALFRED BEATY,

Plaintiff,

Case No. 1:13-CV-773

v.

HON. ROBERT HOLMES BELL

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

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**MEMORANDUM OPINION AND ORDER APPROVING AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

This is a social security action brought under 42 U.S.C. § 1383(c)(3) seeking review of a final decision of the Commissioner of Social Security that Plaintiff was not entitled to supplemental security income (SSI) benefits. The matter was referred to Magistrate Judge Joseph G. Scoville, who issued a Report and Recommendation (R&R), recommending that this Court affirm the Commissioner's decision. The matter is presently before the Court on Defendant's objections to the R&R. In accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(3), the Court has performed de novo consideration of those portions of the R&R to which objections have been made. The Court overrules the objections and issues this Memorandum Opinion and Order.

“[A] general objection to a magistrate’s report, which fails to specify the issues of contention, does not satisfy the requirement that an objection be filed. The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious.” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). The Court may accept, reject, or modify any or all of the Magistrate Judge’s findings or recommendations. *Id.*

Plaintiff's first objection is that the R&R "inaccurately states that the ALJ Decision gave two reasons for invalidating the IQ score of 70; Mr. Beaty's work history and his 'extensive daily activities.' The ALJ Decision did mention the work history (and the lack of IQ scores before age 22), but did not rely on extensive daily activities." (Pl.'s Obj. 2, ECF No. 18.). Contrary to Plaintiff's contention, the Magistrate Judge referred to extensive daily activities in the context of summarizing all of the evidence the ALJ used to determine that Plaintiff's purported IQ of 70 was not valid. Plaintiff is attempting to cherry pick one statement of the ALJ and argue that the one statement is representative of the ALJ's entire reasoning. This objection is without merit, and is overruled.

Second, Plaintiff objects to the Magistrate Judge's conclusion that Plaintiff's ability to drive supports a rejection of his Listing 12.05(C) claim. (*Id.* at 3.) Plaintiff presents again his arguments that his IQ score of 70 should be recognized and that his ability to drive does not undermine such a low IQ score. As the Magistrate Judge noted, the ALJ took much more into consideration than Plaintiff's ability to drive in concluding that his purported IQ was not supported by substantial evidence. Plaintiff's objection is therefore without merit and is overruled.

Finally, Plaintiff objects that the R&R does not address the ALJ's determination that a lack of IQ scores before age 22 was a basis for rejecting Plaintiff's claim under Listing 12.05(C). (*Id.* at 4.) Assuming for the sake of argument that the R&R does not address this issue, the ALJ decided other issues that are fatal to Plaintiff's claim under Listing 12.05(C) and Plaintiff has had an opportunity to be heard before this Court on those issues. Thus, even if the ALJ did commit error in determining Plaintiff had failed to establish onset of impairment before age 22, there is sufficient evidence to deny Plaintiff's Listing 12.05(C) claim on other grounds. Plaintiff's objection is without merit and is overruled.

For the foregoing reasons, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Objections (ECF No. 18) are **OVERRULED**.

IT IS FURTHER ORDERED that the Magistrate Judge's R&R (ECF No. 17) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is **AFFIRMED**.

Dated: July 22, 2014

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE